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Attention: Jeffrey H. Ingerman Esq

9th October 1992

JHB/HM/30591

RECEIVED
PHILIP MORRIS MANAGEMENT CORP.
100 WALL STREET, NEW YORK, N.Y. 10038

Dear Jeff

OCT 16 1992

PM 1322 EPO
Our File: 30591

NOTED CMF

I enclose the first office action from the EPO on this application. The term for reply will expire on 13th December next.

The Examiner cites two prior European specifications, both published before the first priority date of the present application. These are referred to in the action as references D1 and D2.

1. The Examiner identifies the features of the claimed invention also to be found in D1. His analysis seems broadly correct but I should welcome your comments and possible criticisms. He then examines the distinguishing feature and finds similarity between the structure in one of the present embodiments and the structure described in column 7 of D1.

It appears that the Examiner is reading the mention of an impermeable portion of the sleeve in our claim onto the aluminium capsule (52) in Fig.4 of D1. Although there is a clear difference here, it may be worth reconsidering the claim wording to emphasize the distinction.

2. Claims like 25 and 26, which refer in themselves to features individually known in the prior art, are of doubtful value in a European patent, unless the addition of the individually known feature results in some unexpected new result. Claims 28-40 are all compared with various disclosures in D1. The only one of this group of claims not objected to is claim 27, but I do not know how significant this feature is in the practical smoking articles according to this invention.

3. Reference D2 is sighted against claim 2 because it discloses ventilation passages around the heat source. It is notable, however, that the structure providing the channels is significantly different from that providing the annular space in the present invention.

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2.

4. The Examiner here mentions all the claims against which he has raised no specific objection in the earlier paragraphs. If any or any combination of these claims would result in an acceptable scope of protection we might need to look no further. However, we have not found it necessary in most other jurisdictions to do other than clarify claim 1. At the very most we have introduced the annular space feature of claim 2. I would recommend careful revision of the claims without significant limitation of scope when replying to this first action. If we do not satisfy the Examiner with our first reply, then it may be time to consider possible limitations.

I should be grateful for your comments and suggestions.

Yours sincerely

J.H. Bass

cc. James E. Schardt Esq - Philip Morris Mgt. Corp.

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